

From: Alayna Poole apoole@ymwlaw.com
Subject: RE: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests
Date: March 21, 2023 at 2:15 PM
To: Abraham Rubert-Schewel schewel@tinfulton.com
Cc: Rod Pettey RPETTEY@ymwlaw.com, Nichad Davis ndavis@tinfulton.com, Emily Gladden egladden@tinfulton.com, elizabeth@emancipatenc.org, Ian Mance ian@emancipatenc.org

Abe,

Given current constraints on our schedules and the amount of time typically involved with a data extraction search, I am unable to provide you an estimate at this time. I am out of the office most of next week for depositions, and we have a trial scheduled for April 3rd- 12th. Our plan remains to search based on the previously agreed parameters, and if anything responsive is located, we will produce that material once Rod or I have reviewed it. We were notified today that our expert gained access to Detective Gay's phone and is sending us the data from that extraction as well. We will move forward with our plan as stated above for both phones.

Kindly,
Alayna

Alayna M. Poole
Attorney
434 Fayetteville Street
Suite 2200
Raleigh, NC 27601
P.O. Box 2889
Raleigh, NC 27602-2889
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E-mail: apoole@ymwlaw.com

COVID-19 UPDATE: Our firm is open and continues to provide representation to our clients during the current crisis. In order to keep our clients, attorneys and staff safe and healthy, some of our team continue to work in the office while others work remotely through our secure virtual network.

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From: Abraham Rubert-Schewel <schewel@tinfulton.com>
Sent: Monday, March 20, 2023 3:56 PM
To: Alayna Poole <apoole@ymwlaw.com>
Cc: Rod Pettey <RPETTEY@ymwlaw.com>; Nichad Davis <ndavis@tinfulton.com>; Emily Gladden <egladden@tinfulton.com>; elizabeth@emancipatenc.org; Ian Mance <ian@emancipatenc.org>
Subject: RE: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

Alayna,

Do you have an estimate for when this will be produced?

Thanks,

Abe

From: Alayna Poole <apoole@ymwlaw.com>
Sent: Friday, March 17, 2023 1:49 PM
To: Abraham Rubert-Schewel <schewel@tinfulton.com>; Kibler, Dottie <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>; Petty, Amy <Amy.Petty@raleighnc.gov>
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Abe,

Regarding Gwinn's phone, we just received the extraction from our expert and are working to review the data now. As previously discussed, this is a time consuming process, and we will produce anything we are able to locate based on previously agreed search parameters. Insofar as you expect to receive messages in a screenshot format, it has been my experience that extractions tend to show the data in a similar format that the City has produced. Even though we were able to find those messages on Gwinn's phone and produce those as screenshots, that search involved a more rudimentary process than the searches involved with a full data extraction. I would anticipate that should we locate any additional responsive information, it will be in a similar format as the City's production.

Kindly,
Alayna

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E-mail: apoole@ymwlaw.com

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From: Abraham Rubert-Schewel <schewel@tinfulton.com>

Sent: Thursday, March 16, 2023 9:49 PM

To: Kibler, Dottie <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>

Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>; Petty, Amy <Amy.Petty@raleighnc.gov>

Subject: Re: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

Thanks Dottie,

We are not asking for data from the texts. We are asking that someone at RPD turn Rattelade's phone on and examine the texts marked "unknown" in the Cellebrite extract to see if they show a message on the phone. If so, we'd ask for a screenshot or photo of the message.

We continue to ask for the complete group chat among the RPD VICE officers. We understand that you do not believe we are entitled to those texts.

Lastly, we never received text messages from Officer Gwinn's phone. We were told at the meet and confer that these were being extracted and would be provided by Rod.

Best,

--

Abraham Rubert-Schewel

Tin Fulton Walker & Owen, PLLC

www.tinfulton.com

(919) 451-9216 Tel

Durham Office

119 E. Main Street

Durham, NC 27701

Offices in Charlotte, Chapel Hill, Raleigh and Durham

From: Kibler, Dottie <dorothy.kibler@raleighnc.gov>
Date: Thursday, March 16, 2023 at 6:09 PM
To: Abraham Rubert-Schewel <schewel@tinfulton.com>, Emily Gladden <egladden@tinfulton.com>, Nichad Davis <ndavis@tinfulton.com>, Ian Mance <ian@emancipatenc.org>, Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>, Dixon, Jessica C. <jessicadixon@parkerpoe.com>, Rod Pettey <RPETTEY@ymwlaw.com>, Alayna Poole <apoole@ymwlaw.com>, Norwood Blanchard <norwood@cmclawfirm.com>, Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>, Petty, Amy <Amy.Petty@raleighnc.gov>
Subject: RE: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

Abe: There is no such data for the texts we produced that are described below—we produced to you the data that the extraction provided. Please understand that we have complied with our discovery obligations and that further motion practice would not have a good faith basis. If your expert has reviewed the materials we provided in discovery and has suggestions to locate data given the extraction results, we would be glad to consider them. I will certainly also reach out to RPD's forensic expert as well. Dottie

From: Abraham Rubert-Schewel <schewel@tinfulton.com>
Sent: Thursday, March 16, 2023 2:41 PM
To: Kibler, Dottie <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>; Petty, Amy <Amy.Petty@raleighnc.gov>
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Thanks Dottie,

Here is the contact information for the expert: Casey Kafka casey@4discovery.com

We are requesting a screen shot or photo of the text messages themselves. Such as was produced by Detective Gwinn.

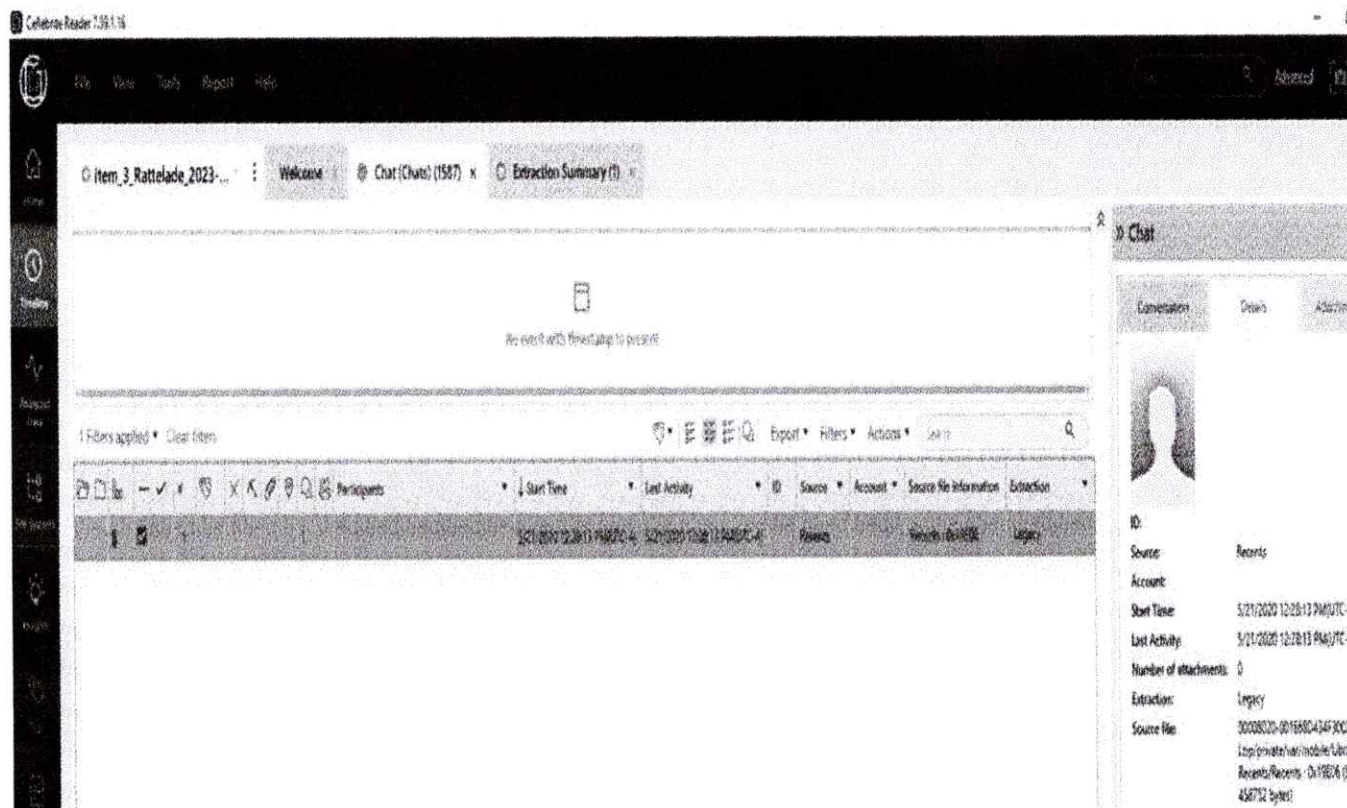
It you refuse to provide these in a readable format, such as through screenshot or pdf converter, we are going to file a motion to compel.

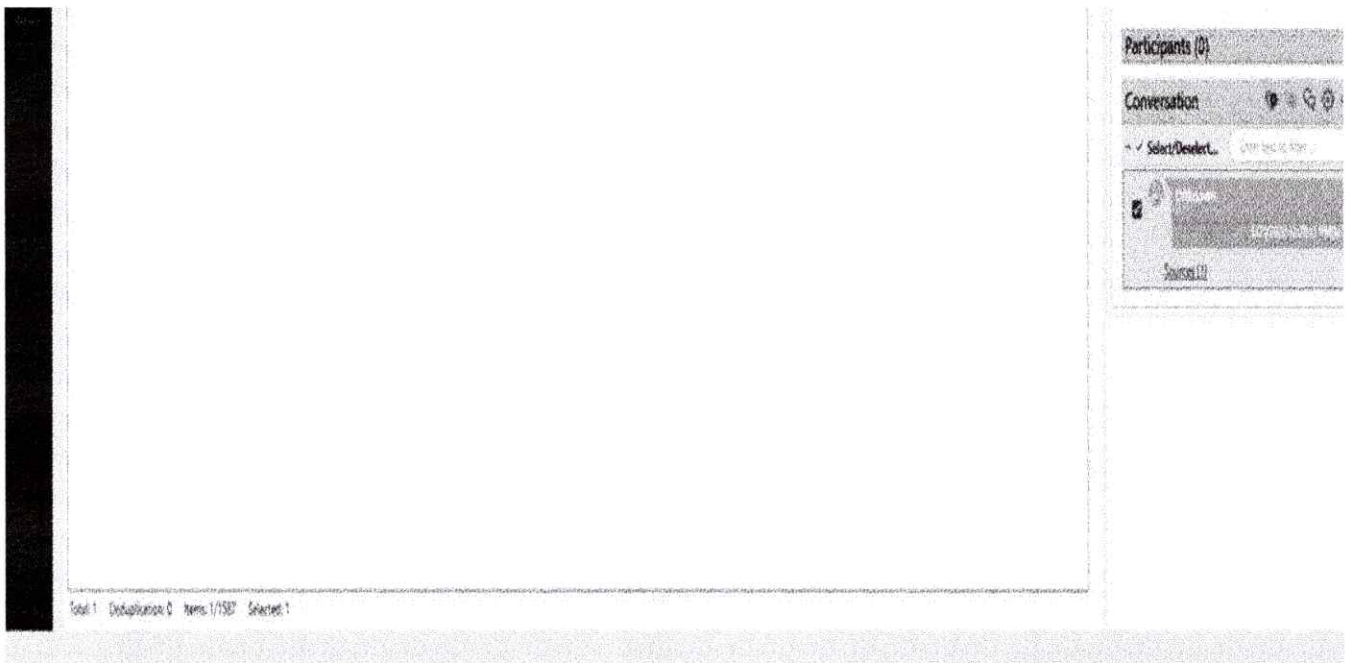
Best,

Abe

From: Kibler, Dottie <dorothy.kibler@raleighnc.gov>
Sent: Wednesday, March 15, 2023 3:35 PM
To: Abraham Rubert-Schewel <schewel@tinfulton.com>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com> <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>; Petty, Amy <Amy.Petty@raleighnc.gov>
Subject: RE: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

Abe: Hopefully, the screenshot below will help you concerning data in the extraction report we provided. This screenshot from the City cellphone issued to Def. Rattelade shows the data for the 5/21/2020 12:28:13 entry that you will see on COR-016293 in a different format. I pass this along to you for your information.
Dottie





From: Abraham Rubert-Schewel <schewel@tinfulton.com>
Sent: Monday, March 13, 2023 3:40 PM
To: Kibler, Dottie <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com>; <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>
Subject: RE: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

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Thanks Dottie,

Is there a reason why you cannot take screen shots of the texts (like Gwinn did) or use a text to PDF converter, which you can get online for free?

At the time we briefed our motion to compel we did not have Gwinn's texts showing a running group text that discussed Aspirin's production of fake heroin. Texts that have not been produced from any of the defendants, although they are on the message chain.

I am happy to connect you with our expert and will do so on a separate email.

Best,

Abe

From: Kibler, Dottie <dorothy.kibler@raleighnc.gov>
Sent: Sunday, March 12, 2023 12:45 PM
To: Abraham Rubert-Schewel <schewel@tinfulton.com>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com>; <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>
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Abe: We provided to you all of the data produced by the agreed searches along with the additional information as described below. As I explained, I conducted an additional search after receiving negative search results on the agreed search. I explained:

Please note that after receiving negative results from the search labeled "A" above, a search was conducted for text messages exchanged on May 20, 2020 or May 21, 2020. Documents labeled COR-016293 to COR-016296 are provided as a result of that search. A search in the instant message area for the same two dates was also conducted and yielded the relevant result that has been labeled COR-016290. Note that the data we have provided is what we were able to find within the extraction report and did not contain the body of any text or instant messages.

There was no additional data for the May 20-21, 2020 texts that my searches located other than what was provided to you.

If you will send me the contact information for your cellphone extraction expert, I would be glad to call that expert to determine whether that expert has query techniques that we have not already utilized or is aware of any additional data located within a Cellebrite report. We have already explained concerns about releasing cellphones from RPD custody on several occasions and those concerns remain. Please also note that the issue you describe in your text immediately below is the same issue that you already raised to the Court in your argument on the pending motion to compel. That issue has been argued by you and is awaiting the Court's ruling. Sincerely, Dottie

From: Abraham Rubert-Schewel <schewel@tinfulton.com>

FROM: Abraham Rubert Schewel <schewel@tinfulton.com>

Sent: Friday, March 10, 2023 4:28 PM

To: Kibler, Dottie <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com> <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>

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Dottie,

We are following up on the below email. If we do not receive the complete group text message chain between the VICE officers in a readable format—or confirmation that you are providing it—by the end of the day on March 14, 2023, we will file a motion to compel disclosure.

Respectfully,

Abe

From: Abraham Rubert-Schewel

Sent: Friday, March 3, 2023 3:45 PM

To: 'Kibler, Dottie' <dorothy.kibler@raleighnc.gov>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>
Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com> <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>

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Thanks Dottie,

Can you explain why you were unable to locate or produce the same portion of the text message chain that was previously produced by Det. Gwinn? Are you able to produce the text messages from Det. Rattelade in a format that does not simply state unknown but

actually shows the content of the message? I imagine you could simply take a screen shot as Gwinn did. There are also text to pdf programs that should show it.

If not, can you provide us with the cellphone to have our experts conduct an extraction?

Best,

Abe

From: Kibler, Dottie <dorothy.kibler@raleighnc.gov>

Sent: Friday, March 3, 2023 10:16 AM

To: Abraham Rubert-Schewel <schewel@tinfulton.com>; Emily Gladden <egladden@tinfulton.com>; Nichad Davis <ndavis@tinfulton.com>; Ian Mance <ian@emancipatenc.org>; Elizabeth Simpson <elizabeth@emancipatenc.org>

Cc: Benton, Jason R. <jasonbenton@parkerpoe.com>; Dixon, Jessica C. <jessicadixon@parkerpoe.com>; Leslie C. Packer <leslie.packer@elliswinters.com>; <leslie.packer@elliswinters.com>; Michelle Liguori <Michelle.Liguori@elliswinters.com>; Rod Pettey <RPETTEY@ymwlaw.com>; Alayna Poole <apoole@ymwlaw.com>; Norwood Blanchard <norwood@cmclawfirm.com>; Svendsgaard, Lisabeth <Lisabeth.Svendsgaard@raleighnc.gov>

Subject: SERVICE BY EMAIL ONLY Irving et al v. City et al, Supplemental Documents to Plaintiffs' First Consolidated Set of Requests

Counsel: The City and Official Capacity Defendants produce additional documents responsive to Plaintiffs' First Consolidated Set of Document Requests and provide the information below, all as agreed during the parties' January 26, 2023 meet-and-confer session. You will soon receive a Sharepoint link from Beth Svendsgaard containing a link to access the documents.

We produce these documents subject to the objections previously asserted in our responses and objections dated 9/19/22 and under the same conditions described in our 10/12/22 production. All documents produced are subject to protection under the orders previously entered by the Court.

Cell phone searches

J.D. Rattelade. An extraction of the City cell phone issued to Defendant Rattelade was conducted. The following searches of this cell phone extraction were conducted and returned no relevant results:

1. For the period 8-16-2018 through 6-13-2020, search for the following terms: "Aspirin," "Dennis Williams," "sugar," "fake," or "fake heroin."
2. For the period 5-1-2020 through 6-13-2020, search for the following terms: "Burgundy" or "warrant."

Please note that after receiving negative results from the search labeled "A" above, a search was conducted for text messages exchanged on May 20, 2020 or May 21,

2020. Documents labeled COR-016293 to COR-016296 are provided as a result of that search. A search in the instant message area for the same two dates was also conducted and yielded the relevant result that has been labeled COR-016290. Note that the data we have provided is what we were able to find within the extraction report and did not contain the body of any text or instant messages.

J. Bunch. An extraction of the City cell phone issued to Jennings Bunch was conducted. The following searches of this cell phone extraction were conducted and returned no relevant results:

1. For the period 8-16-2018 through 6-13-2020, search for the following terms: "Aspirin," "Dennis Williams," "sugar," "fake," or "fake heroin."
2. For the period 5-1-2020 through 6-13-2020, search for the following terms: "Burgundy" or "warrant."

While working on this response, we also came across the messages from May 22, 2020 that have been labeled COR-016291 to COR-016292.

O.I. Abdullah. Additional agreed searches are underway, and an update will be provided to you upon completion.

Additional searches of email accounts

We have completed Plaintiffs' request to search City email accounts of Defendants Abdullah, Gay, Rattelade, Monroe, and Rolfe, for the period 8-16-2018 through 6-13-2020, for the additional terms "sugar," "fake," and "fake heroin." Our search using these terms returned no relevant results. We will ask the City's IT Department to conduct a separate search to confirm our results.

We have conducted the search portion of Plaintiffs' request to search the City email accounts of Defendants Abdullah, Gay, Rattelade, Monroe, and Rolfe, for the period 5-1-2020 through 6-13-2020, for the additional term "warrant." That search returned numerous results and roughly an hour of the agreed three hours has been used in reviewing the data. It is likely that the review will exceed the agreed three-hour period.

Incident reporting system inquiry

I inquired about the incident reporting system. The incident reporting system uses log-in credentials for each user. When a user logs in, reports created by that user bear the user's name. A user cannot use his or her credentials to create a report for any other user.

Thank you, Dottie

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